

REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 21-37 are pending. Claims 1-20 are cancelled herein without prejudice to or disclaimer of the subject matter set forth therein. Claims 21-37 are added, and are readable of elected Group II. Claim 21 is independent. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

Restriction Requirement

The Examiner has made the Restriction Requirement final, and has withdrawn claims 1-13 from further consideration. By this Amendment, Applicants have cancelled non-elected claims 1-13. Applicants reserve the right to file one or more divisional applications directed to the non-elected claims at a later date if so desired. The Applicants respectfully submit that added claims 21-37 are readable on elected Group II.

Oath/Declaration

The Examiner alleges that the Declaration is defective. In response, a new Declaration is attached hereto, thus addressing the issues pointed out by the Examiner.

Drawings

It is gratefully appreciated that the Examiner has accepted the drawings.

Claim for Priority

It is gratefully appreciated that the Examiner has recognized the Applicants' claim for foreign priority. A certified copy of the priority document (DE Application No. 103 11 433.5, filed on 15 March 2003) is attached hereto.

Claim Objections

In response to the objection to claims 15-18, these claims have been cancelled.

Rejection Under 35 U.S.C. § 112, second paragraph

Claim 18 stands rejected under 35 U.S.C. § 112, second paragraph. This rejection is respectfully traversed. In order to overcome this rejection, the Applicants have cancelled claim 18. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. §102(b)

Claims 14, 15, 18, 19, and 20 stand rejected under 35 U.S.C. §102(b) as being anticipated by Wambeke et al. (U.S. 5,741, 014), and

claims 7-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wambeke et al. in view of Bonk et al. (U.S. 4,731,273). These rejections are respectfully traversed.

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, independent claim 21 has been added herein to recite a combination of elements directed to a pressure-sensitive material including a pressure-

The Applicants respectfully submit that this combination of elements as set forth in independent claim 21 is not disclosed or made obvious by the prior art of record, including Wambeke et al.

In contrast to the present invention, Wambeke et al. merely discloses a specific kit of parts for closing an end of a duct having a polygonal internal cross-section. The kit comprises a support in form of a frame made from a single continuous piece of wire and comprising four arms. A sealing material is located on each arm of the frame. Said sealing material may have a semi-circular cross-section or any other shape, depending on the shape of the internal-cross section of the duct to be sealed.

To close the end of a duct, the support is inserted into the duct to provide sealing material therein such that the polygonal internal cross-section of the duct becomes a rather circular internal cross-section such that for instance an inflatable sealing member can close the gap between the sealing members and the surface of a device that has been inserted into the duct (e.g. a cable or pipe).

The heat-recoverable closure member according to Bonk et al. merely discloses a heat-recoverable sheet and a layer of cross-linked pressure-sensitive adhesive, wherein the pressure-sensitive adhesive maintains the closure of the closure member. Bonk et al. teach that the preferred cross-linked pressure-sensitive adhesive useful as the closure adhesive in the heat recoverable sheet material comprises

- (a) an acrylate terpolymer comprised of
 - (i) at least one alkyl acrylate wherein the alkyl group has at least 5 carbon atoms (it is preferably isooctyl acrylate);

- (ii) a second alkyl acrylate wherein the alkyl group has from 1 to 4 carbon atoms (ethyl and/or n-butyl acrylate is/are preferred); and
 - (iii) at least one copolymerizable monoethylenic monomer selected from the group consisting of acrylic acid, methacrylic acid and itaconic acid, wherein acrylic acid is the preferred monomer; and
- (b) a cross-linking agent (Bonk et al. col. 2, lines 59 to col. 3, line 8; col. 4, lines 3 to 9).

It is noted that US 4,404,246 being cited by Bonk et al. (col. 4, line 5) in connection with the preferred acrylate terpolymers discloses a pressure-sensitive adhesive tape, the adhesive layer of which is a copolymer of alkyl acrylate such as isooctyl acrylate and an acid such as acrylic acid and which differs from the prior art in its high acid content and by including a small amount of lower alkoxyated amino formaldehyde condensate as a latent cross-linking agent.

The heat-recoverable closure according to Bonk et al. addresses a different technical problem. The heat-recoverable closure according to Bonk et al. is not designed to close the end of a duct, but to be used as a wrap-around protective closure. For this reason, it is doubted that a person of average skill in the art would combine the teachings of Wambeke et al. and Bonk et al. to contemplate the present invention,

However, even if the skilled artisan would combine the teachings of Wambeke et al. and Bonk et al., and utilize the teaching of Bonk et al. to modify the sealing member of Wambeke et al., he would not find a teaching or a suggestion of the pressure-sensitive adhesive material or the sealing material, as set forth in added independent claim 21 of the present invention.

The combined view of Wambeke's and Bonk's disclosure would merely provide the teaching for a sealing member having a semi-circular cross-section or another shape, and being made from the acrylate terpolymer according to Bonk et al. (see above). Wambeke et al. is silent as to teaching of sealing materials produced by polymerization of (meth)acrylates. Bonk et al. is silent as to teaching of pressure-sensitive adhesives other than that specific acrylate terpolymer comprising at least one alkyl acrylate wherein the alkyl group has at least 5 carbon atoms, a second alkyl acrylate wherein the alkyl group has from 1 to 4 carbon atoms, and at least one copolymerizable monoethylenic monomer selected from the group consisting of acrylic acid, methacrylic acid and itaconic acid.

In contradiction, the pressure-sensitive adhesive/sealing material of the present invention as defined in independent claim 21 is characterized in that the polymerizable mass to produce the pressure-sensitive adhesive/sealing material comprises at least one compound selected from the group consisting of aromatic (meth)acrylates, allcyclic (meth)acrylates, polycyclic (meth)acrylates, heterocyclic (meth)acrylates, di-, tri- and higher (meth)acrylates, epoxide acrylates, epoxides, vinyl ethers, and vinyl esters.

Neither Wambeke et al. nor Bonk et al. disclose that aromatic (meth)acrylates, allcyclic (meth)acrylates, polycyclic (meth)acrylates, heterocyclic (meth)acrylates, di-, tri- and higher (meth)acrylates, epoxide acrylates, epoxides, vinyl ethers, or vinyl esters are useful as monomers for pressure-sensitive adhesive materials or sealing materials produced by polymerization of said monomers. Furthermore, none of these two prior art references indicates

that the compounds named in independent claim 21 may be useful for sealing materials produced by their polymerization.

At least for the reasons described above, the Applicants respectfully submit that the combination of elements as set forth in independent claim 21 is not disclosed or made obvious by the prior art of record, including Wambeke et al and Bonk et al. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Therefore, independent claim 21 is in condition for allowance.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) are respectfully requested.

Dependent Claims

The Examiner will note that dependent claims 22-37 have been added.

All dependent claims are in condition for allowance due to their dependency from allowable independent claims, as well as for the additional novel limitations set forth therein.

All claims of the present application are now in condition for allowance.

CONCLUSION

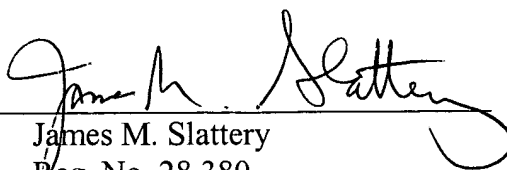
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 205-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
James M. Slattery
Reg. No. 28,380

JMS/CTT/jmb 

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

Attachments: Declaration & Power of Attorney and Priority Document (DE 103 11 433.5)